

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 5, 2004

TO: PARTIES OF RECORD IN RULEMAKING 04-04-003

Decision 04-10-035 was mailed on November 4, 2004, without the dissent of Commissioner Wood. Attached herewith is the dissent.

Very truly yours,

/s/ ANGELA K. MINKIN

Angela K. Minkin, Chief
Administrative Law Judge

ANG:mnt

Attachment

Dissenting Opinion of Commissioner Carl Wood

I dissent from this order, primarily because of the unsupported conclusion that the target date for achieving a 15% planning reserve should be moved forward, at this late date, to June of 2006. It has become a matter of folklore that California cannot ensure reliable service without pushing the planning reserve margin to 15% eighteen months earlier than originally planned. The Governor has announced a need to do this, so it must clearly be so.

There is an undeniable logic that suggests that this change could lead to higher prices. If a utility is planning today to meet a need in 2008, there is time to place more steel in the ground. That reality should encourage existing generators to offer competitive prices and provide insurance in the form of new facilities if existing generators ask for too much. The more we push up the target date, the less we can rely on new projects to keep costs down. In the face of this reality, one would need compelling evidence before creating a moving target.

So, what is the compelling evidence upon which the majority opinion relies? Three things: first, the majority concurs with Governor Schwarzenegger that enhancing grid reliability is important; second, every year of load growth stretches resources more tightly, and third, the retirement of aging power plants without long-term contracts is a continuing threat. What is missing here, is any reference to real numbers: the kind that tell us how much power we will have without moving up the target date, the ones that guide us in understanding the probability that power will not be reliable without more dedicated capacity, and the variety that tell us how much all of this accelerated purchasing will cost ratepayers.

In various places: when discussing the need to allow for retail competition, or when discussing the need to impose more of the revenue burden on residential and small commercial customers, I hear my colleagues express grave concern about rates being too high or going higher. Yet, some remain eager to propitiate the merchant generation sector at the risk of fostering market manipulation and greatly increased cost.

The majority opinion concedes that market manipulation may result, and expresses a determination not to meet the accelerated capacity goals "at any costs". In the hopes of mitigating price gouging, the order calls for establishing reporting requirements in the next phase of the proceeding. The fails to reassure me for at least three reasons. First, the utilities and other load serving entities will feel compelled to act now to meet their reserve obligations, not wait for some future rules. Second, reporting requirements do not equal meaningful mitigation. Third, the current Commission does not have a history

of rejecting costly contracts. Instead, it has approved virtually every arrangement that has been proposed by the utilities, regardless of cost. It is not reassuring to hope for true mitigation when it would interfere with the stated goal of achieving 15% by 2006 and supporting the Governor's goal of accelerated procurement.

The Alternate offered by Commissioner Lynch would have set forth a reasonable phase-in schedule that would achieve more than adequate reserves within a rational period of time. The thrust of the majority opinion, however, is unsupported.

/s/ CARL WOOD

Carl Wood
Commissioner

San Francisco, California
October 28, 2004